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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,146	11/25/2003	Takeo Iwama	1418.1005D	4308
21171	7590	12/30/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			LAUCHMAN, LAYLA G	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,146

Applicant(s)

IWAMA, TAKEO

Examiner

L. G. Lauchman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,2,7 and 8 is/are allowed.
- 6) ☐ Claim(s) 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☒ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Terminal Disclaimer

The terminal disclaimer filed on 10/04/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US patent 6,687,001 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 6 rejected under 35 U.S.C. 102(b) as being anticipated by Saunderson et al (US 3,163,698).

As to Claim 5, the patent teaches a spectroscopic apparatus comprising:
a device 20 changing an angle of a light, the device being controllable (by 42) to control the angle; and a photodevice array (36 and 38) receiving the light having the changed angle, the device being controlled in accordance with the light as received by the photodevice array to control the angle (see col. 3, lines 34-41).

As to Claim 6, the patent teaches a spectroscopic apparatus comprising:
a device 20 changing an angle of light; a photodevice array (36 and 38) receiving the light having the changed angle; and means 40 for controlling the device to

control the angle to thereby improve measurement accuracy of the optical spectrum analyzer (see col. 3, lines 34-41).

Allowable Subject Matter

Claims 1, 2, 7 and 8 are allowed.

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken along or in combination, fails to disclose or render obvious a device diffracting the light output from the spectrograph at an angle, and a control circuit detecting a wavelength deviation in accordance with the light detected by the photodevice array and an assigned position of a wavelength of the diffracted light in the photodevice array, and controlling the device to control the angle in accordance with the detected wavelength deviation, in combination with the rest of the limitations of the claim.

As to Claim 2, the prior art of record taken along or in combination, fails to disclose or render obvious the first and second photodevice arrays together detecting the light output by the spectrograph and having an angle changed by the device, in combination with the rest of the limitations of the claim.

As to Claim 7, the prior art of record taken along or in combination, fails to disclose or render obvious a device changing an angle of the light output from the spectrograph, means for detecting a wavelength deviation in accordance with the light detected by the photodevice array and an assigned position of a wavelength of the light in the photodevice array, and for controlling the device to control the angle in

accordance with the detected wavelength deviation, in combination with the rest of the limitations of the claim.

As to Claim 8, the prior art of record taken along or in combination, fails to disclose or render obvious the photodevices of the second photodevice array being arranged to compensate for the gaps between the photodevices of the first photodevice array, the first and second photodevice arrays together detecting the light diffracted by the device to thereby detect a spectrum by the optical spectrum analyzer, in combination with the rest of the limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claim 5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to TC 2877 via the PTO Fax Center located in CP4-4C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Center number is (703) 872-9306.

If the Applicant wishes to send a Fax dealing with either a Proposed Amendment or for discussion for a phone interview then the fax should:

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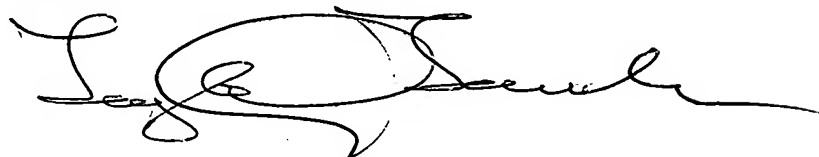
a) Contain either the statement "DRAFT" or "PROPOSED AMENDMENT" on the Fax Cover Sheet; and

b) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read 'L. G. Lauchman', with a long horizontal flourish extending to the right.

L. G. Lauchman
Patent Examiner
Art Unit 2877

December 22, 2004